

REMARKS

This amendment is responsive to the non-final Office Action, dated November 17, 2004, on the merits in the above captioned application. Claims 1-2, 9, 23, 25 and 34 are amended. Claims 1-2 and 4-36 are currently pending in the application. Claims 12-13, 20-22 are allowed if re-written in independent form and 35 is allowed. Claims 1, 23, 25, and 34-36 are independent claims.

The rejection of claim 36 is not understood. Claim 36 is a combination of original claim 1 and claim 20, claim 20 having been indicated as allowable subject matter in both the first and second Office Actions. Claim 20 is drawn to a cover door that covers an opening in a first door (See Figure 4C). The cover door feature is not taught or suggested by the prior art.

The allegation that a cavity sidewall billows in the Butler patent is disappointing, especially since the Examiner allowed this subject matter in the first Office Action (See original claim 3) and approved of it in the Examiner's Interview on May 4, 2004. Moreover, Butler and the other applied references do not teach or suggest in any way a cavity sidewall that billows. In fact, Butler teaches away from billowing by showing absolutely planar cavity sidewalls and by showing outward deflection arrows in Figure 4 of Butler. Applicants do not acquiesce to Butler or any of the other applied reference teaching a billowing sidewall toward the cavity void especially when the cavity void is empty.

It is noted that the public and distributors are very responsive to Applicants' pillows. They like the pillows because they are creative and unique from anything else presently in the marketplace. Applicants look forward to licensing opportunities when this application is in condition for allowance. It is therefore requested in earnest that the Examiner contact Applicants should there be any further delays.

Now turning to the Examiner's specific rejections:

A. Claim 23 was rejected under 35 U.S.C. § 102(b) as being anticipated by Butler.

This rejection is improper since in no way would the cavity sidewalls of Butler billow inward toward the cavity void when the cavity void is empty. Butler does not teach, nor is it inherent, that a cavity sidewall perimeter surface billows toward the cavity.

Butler teaches away from sidewalls that billow toward the cavity since Butler's cavity sidewalls are shown as absolutely planar. Even in the presence of a remote control device, Butler's cavity sidewalls stretch outward, not inward. See the line arrows in Fig. 4 showing outward deflection from a planar state. See also col. 1, lines 56-57 and col. 3, lines 34-35 where Butler states that the cavity stretches. See also col. 2, line 40 where Butler states the "[C]avity 16 is generally rectangular." It is not inherent that Butler provides a billow because extra material is needed to manufacture the billow and since a billow would very likely obscure some of the keys on a remote control device. It is respectfully submitted claim 23 is not anticipated by Butler and requested that this claim be allowed.

The billowing sidewall is an important feature since the billowing sidewall not only snugly holds a removeable item in the cavity but provides a place hidden behind the billow to securely tuck arms or legs of a stuffed animal. In addition, due to the billowing sidewall an item smaller than the cavity opening can be removeably yet securely situated in the cavity. In a pillow lacking a billowing sidewall a smaller item would simply fall out of the cavity. In the present embodiments, Figures 1G and 1H show the sidewall billowing in a U-shaped cross-section for these and other purposes.

Applicants further specify herein the first door attachment location is between the first cavity opening and the outer perimeter of said cushioning member. This additional feature is important

because in this location the door adds to the mystic of the pillow. The door appears to be unconventional structure to a pillow, this entices a person's curiosity to investigate where one further discovers that the structure is a door and moreover a door to a hidden cavity. The door attachment location also allows a portion of the door to bend backward around the backside of the pillow to tuck under the pillow to hold the door open. Additionally, providing a door attached remote from the cavity opening, and of a larger circumference than the cavity opening yet smaller than the circumference of the outer perimeter, means that the cavity opening can be fully hidden or fully exposed. It also means that no portion of the door interferes, visually or physically, with the cavity opening when the door is open. Butler does not teach or suggest a lid attached intermediate the cavity opening and the outer perimeter nor would it have been obvious because it is seemingly more difficult to attach to a front surface as opposed to a corner, and since in Butler the lid would no longer be fully protective of the cushion. Further, Butler does not teach a lid having a smaller circumference than the outer perimeter and it would not have been obvious to do so absent Applicant's own teachings. It is respectfully requested claim 23 be allowed.

B. Claims 1-2, 9-11, and 15-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Castagna.

In regard to US patent 6,038,719 to Castagna, Applicants discussed in the Examiner's interview that Castagna is vague on the structure of cavity 18. Castagna merely mentions "additional material that...provides a pocket" (col. 4, lines 10-11). There is no discussion of a cavity floor surface, and since the opening to the pocket is a slit the patent seems to teach away from a cavity floor surface. A pocket with a slit opening seemingly being formed by two layers

sewn together like a pant's pocket. Applicants do not acquiesce that Castagna teaches a cavity floor surface *and* a cavity sidewall perimeter surface.

Castagna mentions that, "[T]he cavity 18 comprises additional material that contains the stuffing within the pillow and provides a pocket of a predetermined volume for concealing the phallic member 20. The phallic member 20 is preferably stitched to the cavity material, as showing in FIG. 16." See col. 4, lines 9-12. Castagna calls the "additional material" "a pocket." It is not clear what Castagna has contemplated absent further description. A pocket is generally like a pant's pocket where two sidewalls are sewn together and the result is that there is no cavity floor per se. Castagna's FIG. 16 appears to be a perspective view but fails to show any delineation of the cavity suggesting a floor surface and a sidewall surface. Thus, Castagna fails to show or describe a cavity having a sidewall perimeter surface *and* a floor surface.

In the interest of avoiding the patent appeals process and fees associated therewith, Applicants have further specified that the sidewall billows, the sidewall billows sufficiently to partially obscure the floor surface, the first door is bendable, and that the cavity opening and cavity floor surface are of similar predetermined dimension and that these dimensions do not change when the door is in an open or closed position. Support for each of these amendments can be found in the figures. In Castagna, there appears to be no floor surface having a dimension, and moreover the slit opening changes dimension in use. See col. 2, lines 20-21, where Castagna states that the slit "may be widened or opened" in use.

Again, the billowing cavity sidewall is an important feature of the invention. The billowing cavity sidewall makes for a snug fit for an article placed in the cavity whether the door is open or not. The billowing sidewall allows smaller articles to be removeably yet securely situated in the cavity. In a pillow lacking a billowing sidewall a smaller article would simply fall out. The

billowing sidewall also is important because the billow makes for a hidden area under the billow yet above the cavity floor surface. This area is a space hidden from view and can be used for hiding items or for tucking the arms or legs of a stuffed animal under the billow to help hold an item in the cavity.

The cavity floor surface and cavity opening being of similar dimension is another important feature of the invention because the similar dimension, in part, causes the cavity sidewall to billow inward. Also, the similar dimension further illustrates the theme of the pillow. By keeping a square or rectangular shape for the opening and the cavity floor, a corral or stall theme for instance is further illustrated, or by keeping a circular shape a lily pad theme is further illustrated.

Regarding claim 2, Castagna does not teach a stuffed animal.

Regarding claim 9, Castagna does not teach or suggest both a door and securing means. Castagna is so unclear as to the contemplated structure. At most, it appears that hook and loop strip 22 in Fig. 6 of Castagna could be a door. Castagna does not appear to teach two structures but rather one structure, that is, the hook and loop strip that serves as both the door and the securing means. The present claim 9 sets forth a first door *and* a securing means, two structures. Moreover, claim 9 has been amended to set forth that the door opens by bending and that the door conforms to a convex contour of the front surface, as shown in Figures, especially Figures 1B, 1E-1F, 5E-5F, and 6D.

Regarding claim 11, Castagna is so unclear as to the hook and loop strip 22 and mating strip 24 that it is not proper to say that these strips are first and second doors (Fig. 6, col. 4, lines 38-49). It appears that hook and loop strip 22 may function as a door which then mates with strip 24 disposed along side of slit 16. It appears improper, given the lack of clear description, to say that

both strips 22 and 24 are functioning as doors and thus it is submitted that claim 11 is not taught or suggested by Castagna.

Regarding claim 17, Castagna does not teach an outer perimeter surface connected to an outer perimeter of the first surface and the back surface where there is a second cavity in the outer perimeter. Castagna merely shows sides 14 connecting front surface 12 and rear surface 13 in Fig. 1, yet fails to teach or suggest a second cavity in sides 14. See Applicants' Figures 6C and 6E where cavities 620c and 620d are shown in outer perimeter surface 660.

It is respectfully submitted that the claims are not obvious in view Castagna.

C. Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Castagna in view of Lane.

It would not have been obvious to combine Lane with Castagna. Nowhere is it suggested in Castagna to add a radio or cassette player to the phallic novelty pillow of Castagna. Moreover, while Lane teaches a pillow with a radio or cassette player sound device, Lane fails to teach a sound device emitting a sound that further indicates an illustrated theme of the pillow. Thus, even if Castagna and Lane were combined the combination would not yield a pillow having a sound device that emits a sound further illustrating the theme of Castagna's pillow. The deficiencies of Castagna are thus not met by Lane, and since claim 4 depends from amended claim 1, it is respectfully requested claim 4 be allowed.

D. Claims 1-2, 5-8, 14-15, 19 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Butler in view of Dutton.

This rejection is improper since, again, in no way would the cavity sidewalls if Butler billow inward toward the cavity void when the cavity void is empty. Butler does not teach, nor is it

inherent, that a cavity sidewall perimeter surface billows toward a cavity's three dimensional void.

Butler teaches away from sidewalls that billow toward the cavity since Butler's cavity sidewalls are shown as absolutely planar. Even in the presence of a remote control device, Butler's cavity sidewalls stretch outward, not inward. See the line arrows in Fig. 4 showing outward deflection from a planar state. See also col. 1, lines 56-57 and col. 3, lines 34-35 where Butler states that the cavity stretches. See also col. 2, line 40 where Butler states the "Cavity 16 is generally rectangular." It would not have been obvious for Butler to provide a billow because extra material is needed to manufacture the billow and since a billow would very likely obscure key pads on the remote control device. Further, the claims now set forth a sidewall that at least partially obscures the cavity floor whether not an item in the cavity. See for example Figures 2 and 3A where sidewall surfaces 222 and 322 billow inward to obscure floor surfaces 224 and '324' (not labeled). Moreover, neither Butler nor Dutton teach or suggest a bendable door. The bendable door permitting the door to pivot backward to a position out of the way from the cavity opening and also may be used to tuck the door under the pillow to help hold the door open.

Furthermore, Butler does not teach or suggest providing any kind of indicia. The Examiner alleges that it would have been obvious to look to Dutton for indicia that suggests a remote control device. The cushioning device of Butler is a rubber or plastic block for protecting a remote control device. The pillow of Dutton is unlike Butler in that it is a conventional fabric pillow provided with a pocket for holding a storybook. In Dutton there is no door and the book is partially visible above the pocket. Indicia is provided on the fabric in Dutton to encourage a child to associate the indicia with the story line of a book. Dutton does not suggest providing indicia to associate with a physical book object, that is, the indicia relates to the story line not to

the physical book object. Here, the Examiner appears to be saying it would have been obvious to provide indicia to relate to the physical remote control object, and that is not taught or suggested by Dutton. Furthermore, the protective cushion of Butler is so unlike Dutton's educational type pillow in purpose, use, materials and appearance that it would not have been obvious to one of ordinary skill in the art at the time of the invention to look to Dutton from Butler. For the above reasons it is respectfully submitted that claim 1 is allowable.

Regarding claim 2, neither Butler nor Dutton teach or stuffed animal.

Butler does not teach or suggest a shell of any kind. Butler teaches a "flexible, resilient, stretchable elastomeric, generally rectangular block...of natural or synthetic rubber or plastic," col. 2, line 36-38. The block of Butler does not have a shell. The shell in the present invention is illustrated as comprising layers of material, and more specifically quilted fabric layers of material, as set forth in claim 7. The Examiner does not provide any rationale as to his apparent allegation that it would have been obvious to apply the fabric shell of Dutton to Butler.

Providing a fabric shell to Butler would greatly complicate the manufacturing process of Butler, and moreover there is no apparent reason to apply a fabric shell. A shell in Butler would cause the cavity, cavity openings and passageways to be especially complicated to manufacture.

Applicants have discovered and described herein how to make such complicated pillows having a shell which is one of the reasons this invention is recognized as being so unique. It is respectfully submitted that this feature is not taught or suggested by Butler in view of Dutton.

Regarding, the cavity floor surface, in Butler the cavity floor surface is spaced from the back surface of the block by rubber or plastic that serves as padding for the remote control device. If the cavity floor surface had been attached proximate to the back surface there would be

inadequate padding for the remote control device, therefore Butler does not teach or suggest the subject matter of claim 8.

Butler mentions that the protective block may have other shapes but does not teach or suggest purposefully providing a shape to illustrate the theme of the pillow. In the present claim 14, the outer perimeter of the cushioning member is shaped to further visually indicate the pillow's illustrated theme. An important part of the present invention is that the pillows are largely theme based. The themes are attractive and they entice a person to look inside the pillow to discover what is hidden behind the door. The themes often give a clue to the hidden item. Butler simply does not teach or suggest utilizing a theme, and therefore does not teach providing a pillow shape illustrative of a selected theme.

Regarding claim 24, Butler does not teach or suggest providing any kind of indicia. Moreover, Butler specifically does not teach or suggest providing indicia to further illustrate a theme. Claim 24 is drawn to the first surface and the first door having indicia and that together with the removable item visually illustrates a theme. Butler mere states that the block may be of "attractive appearance", see col. 2, lines 66-67. It is noted, that in the first Office Action, mailed March 23, 2004, the Examiner admitted that "Butler fails to disclose indicia on the first door." (page 6, lines 18-19). The indicia provided on the fabric in Dutton does not cure this deficiency of Butler because the indicia of Dutton is to encourage a child to associate the indicia with the story line of a book. Dutton does not suggest providing indicia to associate with the physical book object, that is, the indicia relates to the story line not to the physical book object. See col. 1, line 51, where Dutton specifically states "...indicia related to the content or subject matter of the book," see also col. 1, lines 58-59. Thus, even if indicia was applied to Butler, according to the teachings of Dutton the indicia would not relate to the physical remote control object.

E. Claims 25-26, 28-34 and 36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dutton in view of Butler.

Nothing in Dutton suggests modifying the pillow-book concept with the remote control holding block of Butler. There is no motivation to combine these disparate references therefore the rejection is not proper.

The Examiner properly recognizes that Dutton fails to teach or suggest a cavity having a cavity sidewall and a cavity floor, a cavity sidewall encircled by a cushioning medium, and a third layer of material attached for opening and closing over the cavity opening.

The Examiner attempts to cure these deficiencies with reference to Butler. However, Dutton is a pillow that holds a storybook, and Butler is a remote control device holder and protector. It would not be obvious to look to Butler for a cavity "in order to store and protect equipment from vibrations, jars, and drops" since Dutton is not for storing equipment in the first place. Furthermore, even if a person did substitute the cavity and door of Butler for the pocket of Dutton the substitution would totally destroy the Dutton patent. No longer would there be a pocket for holding the book of Dutton, and no longer would there be a pocket bearing indicia relating to the story line of the physical book object. Furthermore, Butler has no layers of material and therefore the cavity would lack a front layer, a cavity sidewall perimeter layer, and a cavity floor layer.

Again, in the interest of expediting this application claim 25 has been amended to further specify that the third layer of material is attached in between the opening of the cavity and the outer perimeter of said first layer of material. Dutton shows the pocket attached at the outer perimeter. And, Butler shows a lid attached at an edge of the outer perimeter. Butler also lacking a first layer all together. Neither reference teaches or suggests attaching a door to a first

layer and in between a cavity opening and an outer perimeter. Claim 25 has also been further amended to set forth the cavity floor and cavity opening have a similar shape and size of which are generally maintained. It is respectfully submitted that each of the features taken in combination are not taught or suggested by the prior art of record.

Regarding claim 26, neither Dutton nor Butler teaches a pillow with a stuffed toy removeably stationed in a cavity.

Regarding claim 28, Dutton does not teach a third layer overlaying a cavity opening and since the substitution of the lid and cavity in Butler for the pocket of Dutton would destroy the teachings of Dutton, it is respectfully submitted that claim 28 is not taught or suggested by this combination.

Regarding claim 29, Dutton does not teach a cavity floor *layer*, nor does Butler. Butler being made of a rubber or plastic block does not have a cavity sidewall perimeter *layer* or a cavity floor *layer*, thus even if the combination were possible without destroying Dutton, it would not yield a cavity floor layer attached to the second layer.

Regarding claim 30, neither Dutton nor Butler teaches shaping an outer perimeter of a pillow in to a shape that further illustrates the theme of the pillow. Note Applicants' rocket shaped theme pillow in Figures 4A-4D, barn shaped pillow in Figures 5A-5D, and Noah's Ark theme pillow Figures 6A-6E, each having outer perimeter shapes that further illustrate the theme of the pillow. Again, the pillow theme is important in enticing one to investigate the door and then look behind the door to the cavity for the surprise hidden item inside.

Regarding claim 31, Dutton does not teach an outer perimeter layer of material for providing depth to the pillow. In the present invention, the outer perimeter layer is connecting the outer perimeter of the first and second layers, see for example, layers 560 Figures 5E-5F and 660 in

Figures 6C-6D. The Butler patent has sides 24, 26, 28 and 30, but these sides are not layers of material. Therefore, even if it were proper to look to Butler from Dutton, Butler still does not cure the deficiencies of Dutton because Butler does not have outer perimeter *layers*.

Regarding claim 32, Dutton does not teach a second cavity. It would not have been obvious to look to Butler for one cavity, as stated above, let alone to look to Butler for a second cavity, such cavities destroying the pocket teachings of Dutton.

Regarding claim 33, Dutton does not teach a tunnel. It would not have been obvious to look to Butler, as discussed above, as modifying Dutton with a tunnel would destroy the Dutton pillow pocket for holding a book.

Regarding independent claim 34, Dutton does not teach a cavity and Butler can not cure this deficiency without destroying the pocket book teachings of Dutton, as discussed above. In addition, claim 34 has been amended to set forth that the cavity floor layer is directly connected to the back layer. Butler does not have layers and even if it did, a cavity floor layer and back layer would have to have intervening cushioning medium to protect the remote control device. Thus, it is respectfully requested that claim 34 be allowed.

With respect to independent claim 36, neither Dutton nor Butler teaches a cover door. A cover door is a door that overlays an opening in another door. See Applicants' Figure 4C where cover door 454 overlays an opening in door 404. It is noted that the cover door feature was indicated as allowable subject matter in claim 20, therefore it is not understood why it is now rejected in claim 36. It is respectfully requested that claim 36 and the above claims be allowed.

F. Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Butler in view of Dutton and Castagna.

Castagna does not teach or suggest both a door and securing means. Castagna is so unclear as to the contemplated structure. At most it appears that hook and loop strip 22 (Fig. 6) of Castagna could be a door. Castagna does not appear to teach two structures but rather one structure, that is, the hook and loop strip serves as both the door and the securing means. The present claim 9 sets forth a first door *and* a securing means, two structures. Castagna fails to clearly teach two structures thus fails to cure the deficiencies of the Butler and Dutton. Moreover, the additional subject matter of claim 9 is not taught or suggested, that is, a first door conforming to a convex contour of the front surface.

G. Claim 27 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Dutton in view of Butler and Lane

The combination of Dutton in view of Butler is improper, as addressed above, therefore the combination of Dutton in view of Butler and Lane is also improper for the same reasons. Furthermore, it would not have been obvious to look to Lane from Dutton. Nowhere is it suggested in Dutton to add a radio or cassette player sound device to the book holding pillow of Dutton. Furthermore, nowhere is it suggested in Lane to combine a sound emitting device with a storybook holding pillow. Therefore, lacking any suggestion in Dutton to look to Lane, it appears that the Examiner looked to Applicants own teachings. Utilizing Applicants own teachings to construct a rejection is impermissible hindsight analysis. The teachings and the rationale to combine references must come from the references themselves and not from Applicants' inventive subject matter.

For all of the above reasons and others, none of these references individually or in combination teach or fairly suggest the claimed invention. Applicants do not acquiesce to the

Examiner's rejections discussed in these Remarks but in the interest of avoiding further fees and time delay associated therewith certain amendments have been made.

Applicants respectfully submit that pending claims 1-2 and 4-36 are patentably distinguishable over the prior art, and that this application as a whole is in condition for allowance. Early and favorable notice to that effect is therefore respectfully requested. If any issues remain unresolved in the present application, the Examiner is asked in earnest to contact the undersigned Applicants at the telephone number below with any helpful suggestions.

Respectfully submitted,



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Date:

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